

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

METROKANE, INC.,

Plaintiff,

vs.

HOUDINI, INC.,

Defendants.

Case No. 08-CV-5841 (NRB)
ECF Case

**DEFENDANT HOUDINI, INC.'S NOTICE OF MOTION AND MOTION
TO STAY OR TRANSFER**

Defendant Houdini, Inc. moves for an order staying this action during the pendency of a prior civil action between the parties in the United States District Court for the Central District of California, entitled *Houdini, Inc. v. Metrokane, Inc.*, Civil Action No. CV08-03076 PA (FMOx) or alternatively, that this action be transferred to the Central District of California where it can be consolidated with the first-filed action.

This Motion is based on this Motion, the memorandum of points and authorities and declaration of Timothy J. Dean and Edward R. Schwartz submitted herewith, the complete record of this action and such other and further documentary and oral evidence as may be submitted in connection with this Motion.

Respectfully submitted,

DATED: July 31, 2008

By s/ Edward R. Schwartz

Edward R. Schwartz

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